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The Impact of Taiwan's Political Reform on Its Mainland China Policy: Pragmatic Economic Relations and Conflicting Political Ideology

Lawrence B. Weiner†

INTRODUCTION

For nearly forty years, the Republic of China on Taiwan (ROC), acting under the Kuo Min Tang (KMT), or Nationalist Party, and the People's Republic of China (PRC), acting under the Chinese Communist Party (CCP), have ruled separate provinces across the Taiwan Straits, each claiming legitimate rule over China. During that entire time, neither side rescinded its threat to use military force, and the mainland regularly shelled islands controlled by the ROC.

Recent events, however, have significantly altered relations between the two Chinas. In 1987, immediately after the ROC government repealed martial law,¹ Taiwan residents were allowed to visit the mainland for the first time. At about the same time, the ROC loosened restrictions on private business transactions and began to encourage academic and cultural exchange across the Straits. The result has been a significant improvement in private, unofficial relations between Taiwan and mainland China.

This Comment analyzes two recent changes in ROC policy toward mainland China. First, despite its ideology, the ROC has adopted a more pragmatic approach to its colossal neighbor. This approach is embodied in a "noninterference" doctrine which allows Taiwan residents to engage in private, unofficial dealings with mainland Chinese, but forbids official, public contacts. Second, the ROC has begun to exploit academic, cultural

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1. Martial law was formally lifted on July 15, 1987, soon after the National Security Act was passed by the Legislative Yuan.

and economic exchange across the Straits in an effort to convince mainlanders of the superiority of the ROC system over communism. This claim, that Taiwan is a blueprint for the mainland, represents a battle for the hearts and minds of Chinese people. It is also the ROC's last realistic hope that it represents the future path of China.

I. BACKGROUND

A. *Orthodoxy as a Basis for the ROC's Refusal to Negotiate*

Ever since the KMT and its followers fled the mainland for Taiwan in 1949, its leaders have clung to the belief that the government they established on Taiwan is the one legitimate government of China. In this respect, the ROC is not unlike many regimes throughout Chinese history. Historically, China's leaders have gone to great lengths to establish their legitimacy by demonstrating their allegiance to traditional Chinese moral, social and political precepts. Leaders who could prove their orthodoxy were able to justify their own authority and discredit the opposition; this notion is evident in the adage *han zei bu lian li* [all those who are not orthodox are incompatible].²

Politically, however, neither the ROC nor the PRC can claim to be orthodox. Prior to 1911, China was a dynastic, pre-modern society lacking experience with republican government. Since both the ROC and PRC are republics, Chinese history does not provide useful political models for contemporary leadership. Moreover, both parties were heavily influenced by Soviet doctrine and methods.³ Although some argue that Sun Yat-sen's doctrine is inherently more "Chinese" than Marxist-Maoist ideology, such assertions are difficult to prove, and in any event both parties profess to revere Dr. Sun. In some respects, the ROC has moved further away from Chinese political tradition than the PRC: the current process of democratization in Taiwan is unprecedented in Chinese history. The Communists, on the other hand, seem to have embraced the time-worn Confucian concepts of thought-control and authoritarianism.⁴

The KMT therefore gives "orthodoxy" a more ethical and cultural meaning than a political one. Chiang Kai-shek once wrote: "We must

2. Zeng Xianyi and Zheng Ding, *Current Special Laws in Taiwan as an Impediment to the Development of Relations with the PRC*, 3 J Chinese L 204, 208 (1989).

3. See John King Fairbank, *The Great Chinese Revolution 1800-1985* ch 12 (Harper & Row, 1987).

4. The Confucianist Dong Zhongshu claimed that a "unified dominion" requires unity of politics and of people's thought. Zeng and Zheng, 3 J Chinese L at 209 (cited in note 2).

carry forward ethical standards that emphasize etiquette and justice and a sense of honor. This system of ethics is the *siwei bade* [four relations, eight virtues] which is based on loyalty and piety."⁵ This Confucian system influenced early 20th-century KMT leaders and became rooted in present-day Taiwan society.

The ROC's claim to orthodoxy is that the political leaders of Taiwan, and not those on the mainland, have gone to great lengths to uphold traditional Chinese values, especially those pertaining to the Confucian model for social relations, and have preserved, interpreted, and integrated these values into the institutional norms of family, school, and government.⁶ This claim is credible because the ROC has not altered the written language, has preserved traditional educational goals and methods, has encouraged the celebration of traditional events, and has generally revered the "old culture."⁷ In the hands of the political authorities on Taiwan, this cultural orthodoxy has become a powerful propaganda tool to win the hearts and minds of Chinese people.

B. *Special Laws*

The current ROC Constitution was enacted on December 25, 1946 and became effective one year after its enactment. This constitution, based on the teachings of Sun Yat-sen, is guided by the principle that a government is created by a constitution, that powers are separated and balanced, and that the president's powers should be limited.⁸ It contains provisions which guarantee citizens' rights similar to those found in Western constitutions, such as freedom of speech and publication,⁹ religious belief,¹⁰ residence,¹¹ privacy of correspondence,¹² assembly and association.¹³ It also states that people are all equal before the law irrespective of sex, race, religion, class or party affiliations.¹⁴

5. *Id* at 208.

6. William T. Liu, *Sociocultural Relations*, 16 *Asian Affairs* 135, 138 (1989).

7. This assertion of orthodoxy is generally undisputed, even among mainland Chinese interpreters.

8. Hung-mao Tien, *The Great Transition: Political and Social Change in the ROC* 245 (Hoover Institution Press, 1989) ("The Great Transition").

9. ROC Const, Art 11.

10. *Id* at Art 13.

11. *Id* at Art 10.

12. *Id* at Art 12.

13. *Id* at Art 14.

14. *Id* at Art 7.

At the time this constitution came into effect, however, the KMT was engaged in armed struggle with the Chinese Communists for control of the mainland. During this time, it would have been difficult if not impossible to conduct the government in accord with the constitution. As a result, a series of special laws and regulations were enacted for the purpose of resisting the Japanese and suppressing the Communist Party.¹⁵ Of these laws, the two that were most instrumental in circumventing the constitution and imposing authoritarian rule were (1) the Temporary Provisions Effective During the Period of Mobilization to Suppress Communist Rebellion and (2) Martial Law.

1. *The Temporary Provisions*

When the first session of the first term of the National Assembly was convened at Nanking in 1948, the Temporary Provisions Effective During the Period of Mobilization to Suppress Communist Rebellion ("Temporary Provisions") were adopted to deal with the emergency created by the Chinese Communists' military successes. These provisions have been in force since 1949, when the Communists overran the mainland and the KMT and its supporters fled to Taiwan.

Although the Temporary Provisions are not "formal" amendments to the constitution, they have suspended many of its key provisions.¹⁶ Essentially, the provisions deem the Communists "rebels" and legally empower the ROC government to act at its own discretion to "avert imminent danger" or "cope with any serious economic crisis."¹⁷ They override the constitution by giving the president extra-constitutional pow-

15. More than thirty such laws and regulations creating special crimes and punishments existed before 1947, and since then more than thirty similar laws and regulations have been promulgated. In 1927, a special criminal law was enacted called the Interim Regulations for Suppressing Bandits. Other laws which were later adopted include the Interim Penal Law for Counterrevolutionary Crimes, the Emergency Penal Law for Endangering the Republic, the Law Concerning Voluntary Surrender of Members of the Communist Party, Interim Procedures for the Punishment of Bandits, and the Emergency Procedures Concerning the Safeguarding of Social Order During Periods of Rebellion. See Zeng and Zheng, 3 J Chinese L at 211 (cited in note 2).

16. The procedure to amend the constitution can take either of the following forms: (1) An amendment may be adopted upon the the proposal of one-fifth of the total number of delegates to the National Assembly and by a resolution of three-fourths of the delegates present at a meeting with a quorum of two-thirds of all delegates; or (2) an amendment may be drawn up by the Legislative Yuan and submitted by it to the National Assembly for concurrence through referendum upon the proposal of one-fourth of the members of the Legislative Yuan and by a resolution of three-fourths of all members of the Yuan. ROC Const, Art 174. In fact, the adoption of the Temporary Provisions followed the procedures prescribed for amendments to the constitution.

17. ROC Const, Temporary Provisions, Art 1.

ers to deal with political, military, and economic matters during times of emergency. They also extend the president's term indefinitely, authorize him to establish special organizations without constitutional restriction, and invalidate the constitutional requirement that all representatives be elected.¹⁸

Under the extra-constitutional powers conferred by the Temporary Provisions, the president has nearly unlimited authority to avert crisis. Moreover, the Temporary Provisions have legally justified the enactment of many special laws and regulations. As a result, the government has passed laws which both (a) extend the scope of application of civil and criminal law and (b) increase the penalties for various crimes beyond those set by statute.¹⁹ Regulations have been enacted which raise fines for criminal and civil offenses,²⁰ increase penalties for drug smuggling²¹ and embezzling,²² change electoral procedure,²³ and stiffen penalties for "bandits" (i.e., Communists).²⁴ These special laws and regulations have enabled the ROC government to strictly control Taiwan society for decades.

2. *Martial Law*

Martial law was enacted on the mainland in 1934, but it was not until May 20, 1949 that it was extended to Taiwan.²⁵ Its application was based on an administrative order issued in December 1949 by the Executive Yuan that designated Taiwan a combat area in China's civil war.²⁶ From then until July 15, 1987, Taiwan was under military control, even though the island has never been a combat area.

18. Id at Arts 4-5. As a result of this provision, the National Security Conference was created. In times of emergency, the NSC acts independently of the Five Departments of the central government. *The Great Transition* at 253 (cited in note 8).

19. Zeng and Zheng, 3 J Chinese L at 215 (cited in note 2).

20. Regulations for Raising the Amounts of Fines During the Suppression of Rebellion, promulgated May 25, 1962; amended Jan. 9, 1970. 18 Compilation of Current Laws and Regulations of the ROC 10833.

21. Regulations Concerning Elimination of Drugs During Time of Rebellion, promulgated June 3, 1955; amended June 21, 1973. 34 Compilation of Current Laws and Regulations of the ROC 20265.

22. Regulations for Inflicting Punishments on Embezzlers During Time of Rebellion, promulgated July 15, 1963; amended June 21, 1973. Id.

23. Law for Election and Removal of Government Officials During Time of Rebellion, promulgated May 14, 1980; amended July 8, 1983. 2 Current Compilation of Laws and Regulations of the ROC 765.

24. Regulations for Informing Against Bandits and Espionage During Time of Rebellion, promulgated June 13, 1950; amended Dec. 28, 1954. 12 Compilation of Current Laws and Regulations of the ROC 6911.

25. Martial Law, promulgated Nov 29, 1934; amended 1949; repealed July 15, 1987.

26. *The Great Transition* at 110 (cited in note 8).

Under Article 9 of the law, "local administrative and judicial matters" throughout Taiwan were to be placed "under the jurisdiction of the commander in chief," and local administrative officials and judges were to be "subject to the direction of the said commander in chief."²⁷ In 1950, a Taiwan Garrison Command headquarters was established to supervise all matters regarding the implementation of martial law.²⁸ Although it did not assume control of local administrative and judicial matters as stipulated in Article 9, its responsibilities did include (a) authorizing citizens to travel abroad, (b) monitoring all entries into Taiwan, (c) approving meetings and rallies, (d) reviewing and sanctioning books and periodicals, and (e) maintaining social order.²⁹ As a result, military authority governed a broad segment of civilian life.

Some commentators, especially those from the ruling KMT party, have argued that martial law did not significantly alter the structure and function of constitutional government.³⁰ They point to the fact that many provisions of martial law were not implemented, and that day-to-day life was relatively unaffected.³¹ Nevertheless, the Garrison Command held tremendous extra-constitutional power over Taiwan's citizens. People were subject to restrictions and surveillance categorically forbidden by the constitution.³² Organized political opposition was banned, and all contact with the mainland was forbidden. For many Chinese in Taiwan and overseas, martial law symbolized political oppression and authoritarianism.

C. *Mainland Policy*

No matter what circumstances it finds itself in, the Republic of China will never negotiate with the communist government, nor will it ever abandon its divine mission of saving its fellow coun-

27. Martial Law at Art 9 (cited in note 25).

28. *The Great Transition* at 110 (cited in note 8).

29. *Id.*

30. Dennis Te-Chung Tang, *On the Feasibility of Economic Incentives in Taiwan's Environmental Regulations: Lessons from the American Experience* 299 (December 1990) (unpublished manuscript, on file with the *Pacific Rim Law and Policy Journal*).

31. In a poll conducted in Taiwan in 1985, many people said they did not even know of the existence of martial law. *Id.*

32. *The Great Transition* at 111 (cited in note 8).

trymen and restoring the mainland. Our position will never change.³³

Since 1949, the ROC has considered the "Three No's" to be the centerpiece of its mainland policy: no contact, no negotiations, and no compromise. Until the early eighties, this policy was synonymous with absolute separation.

It is important to remember that in spite of the conflict between the two rival governments, both sides officially agree that there is only one China, and that Taiwan is merely a province within China. The problem is that both the PRC and ROC each insist that it alone is the legitimate *national* government. To the PRC, the ROC government is a provincial authority, with legitimate rule over the province of Taiwan only. To the contrary, the ROC asserts that it is a "provisional" government which is biding its time on Taiwan until it can one day retake the mainland.

Until recently, ROC policy towards the mainland has been uniformly characterized by extreme hostility and absolute separation.³⁴ This approach was justified, among other reasons, by a hardline PRC stance, which held that Taiwan was an enclave of dictatorial "bureaucrats, landlords, and big bourgeoisie" who were, according to Marxist-Leninist ideology, exploiters and oppressors of the masses.³⁵ Throughout the 1960's and 70's, Beijing advocated a military solution and deployed troops along the Fukien coast poised to "liberate" Taiwan.³⁶ In 1976, for example, Zhang Chunqiao, one of the group later labelled the "Gang of Four," told a U.S. delegation that peaceful reconciliation was impossible, and that Taiwan must be "liberated by force."³⁷ Although there are examples of pragmatic mainland officials who advocated peaceful reunification,³⁸ Taiwan had every reason to be cautious.

Another factor which influenced Taiwan's mainland policy was the legitimacy of the KMT regime, which was founded on the principle of China's unification. After the KMT sought sanctuary on Taiwan in 1949, it dominated the political process on the island, claiming that its refugee

33. Chiang Ching-kuo in a 1978 address before the National Assembly. See Jason C. Hu, *The Policy of the Republic of China Towards the Mainland*, 25 Asian Outlook 20 (May-June 1990).

34. Hu, 25 Asian Outlook at 20 (cited in note 33).

35. *The Great Transition* at 240 (cited in note 8).

36. *Id.*

37. *Id.*

38. As early as 1956, Chou En-lai stated that "the Chinese people would seek to liberate Taiwan by peaceful means so far as it is possible." *Id.*

regime was still China's only legitimate government. The KMT claimed that the Chinese civil war had not ended, and that Beijing's rulers were "communist bandits." They vowed to counterattack the mainland.³⁹

Before 1979, mainland Chinese units regularly shelled ROC-controlled offshore islands, and the two sides were in a constant state of military confrontation ranging from military action to subversive infiltration.⁴⁰ As a result, the ROC at times spent more than half its national budget on its armed forces and had made plans to recapture the mainland militarily.⁴¹

Military force was not used, however, and the battle for legitimacy became a battle of diplomacy, with foreign nations as *de facto* arbiters. This battle went poorly for Taiwan, and the ROC suffered a serious setback in 1971 when the United Nations voted to admit the Beijing government.⁴² In 1978, President Carter officially recognized the PRC, broke off official relations with Taiwan, abrogated the Mutual Defense Treaty, and began withdrawing the U.S. military presence from the island.⁴³ For both Taiwan and the mainland, this was a turning point.

It was then that the ROC government began to take a more sober look at its relations with the mainland. Although old-guard KMT mainlanders still dominated national government and ardently supported military recapture of the mainland, many officials, Chiang Ching-kuo among them, realized that Taiwan had grown increasingly isolated in the world community and could no longer depend on U.S. or Soviet intervention if the mainland attacked militarily. This realization did not change Taipei's official policy, but a subtle change had occurred. Officials began to acknowledge that a new strategy was needed.

Concurrently, as a result of both its own internal politics and its increased international status, the PRC advanced a series of peaceful overtures aimed at pushing the reunification process forward.⁴⁴ Their stance differed markedly from the bellicose rhetoric of the three preceding decades: on January 1, 1979, the same day it established diplomatic rela-

39. F. Gilbert Chan, *China's Reunification and the Taiwan Question* 22 (Asian Studies Monograph Series, Asian Research Service, 1984) ("*China's Reunification*").

40. Ricky Tung, *Mainland China in Taiwan's Economic Future*, 26 *Issues & Studies* 37, 40 (May 1990).

41. *Id.* at 37.

42. *China's Reunification* at 23 (cited in note 39).

43. *Id.* at 19.

44. In December 1978, after Deng Xiaoping and his associates won their power struggle against the Maoists, the new CCP leadership decided that the struggle for reunification should be pursued by peaceful means.

tions with Washington, the PRC issued a "Message to Compatriots in Taiwan," offering to work with them in pursuit of the "historical mission of national reunification."⁴⁵ Mainland officials urged Taiwan to establish direct trade, postal/telecommunications, and shipping ties with the mainland (known as the "three direct ties"), as well as academic, cultural, sports, and technological exchanges (known as the "four exchanges").⁴⁶ At the same time, it ceased shelling ROC-controlled offshore islands.⁴⁷

The ROC refused to negotiate, and thus no official ties were established. But at this time, mainland agencies started making large purchases of Taiwan consumer goods through Hong Kong. In 1980 the mainland removed export taxes on products sold to Taiwan and also removed import duties on Taiwan goods.⁴⁸ Since then, the mainland has regarded all Taiwan-mainland trade, which was still illegal in Taiwan, as its own domestic trade.⁴⁹

II. MAINLAND FEVER

A. Political Reform

The political turning point occurred in October 1986, when President Chiang Ching-kuo announced that in light of social progress, the government planned to lift martial law.⁵⁰ The rationale, according to President Chiang, was that the government "must accomodate itself to the changing environment" and that only by adopting reform measures would it "be able to keep pace with the changing times."⁵¹ In July 1987, the National Security Act During the Period of Communist Rebellion ("National Security Act") formally replaced martial law.

This change dramatically affected relations with the mainland. In November 1987, Taiwan residents (excepting public officials and army personnel) were allowed to visit immediate family relatives on the mainland. In August 1988, regulations were extended to allow Taiwan residents to visit relatives up to the fourth degree, and in April 1989, teachers (excepting military and police teachers and principals of universities and

45. *China's Reunification* at 17 (cited in note 39).

46. Tung, 26 *Issues & Studies* at 38 (cited in note 40).

47. *Id.* at 39.

48. *Id.*

49. Although duty-free status was modified a year later to correct abuses by trading agents in Hong Kong, Taiwan products have continued to enjoy customs rates lower than products from other countries. *The Great Transition* at 245 (cited in note 8).

50. *Id.* at 112.

51. *Id.*

colleges) were permitted to return to their home villages on the mainland.⁵² In May 1989, permission was granted for news reporting and filmmaking on the mainland, and soon thereafter members of private organizations were allowed to attend international trade and economic conferences held on mainland soil.⁵³ Subsequently, regulations were relaxed even further: permission to travel was granted to employees of government organizations and state-run enterprises (excluding those in military, police and intelligence organizations), and in April 1990, elected officials at all levels were permitted to make private visits.⁵⁴

According to mainland China's National Tourism Administration, in 1989, 561,000 people traveled to China from Taiwan, spending \$1.4 billion—64.8 percent of the mainland's income from tourism that year.⁵⁵ Although the total number of tourists worldwide who visited the mainland dropped 7 percent in the first quarter of 1990, those from Taiwan increased 40 percent from the year before.⁵⁶ Some claim that over 1,000,000 tourists from Taiwan visited the mainland in 1990.⁵⁷

B. *Trade and Investment*

In addition to an increase in tourism, there was also a surge in trade and investment between the two Chinas. Actually, trade had begun to increase in 1979 after mainland officials announced favorable treatment of all Taiwan-made products.⁵⁸ At that time, the ROC deemed all trade between Taiwan and the mainland illegal on the grounds that any economic exchange would "prop up" the Communist regime, and was therefore adverse to the ROC's best interest.

Nonetheless, authorities were aware of extensive indirect trade, mostly through Hong Kong, which had been taking place since 1979. Although the ROC did not officially sanction such trade, neither did the

52. Masahiro Wakabayashi, *Relations Between Taiwan and China During the 1980's, Viewed from the Taiwan Perspective*, 87 China Newsletter 7, 8 (July-August 1990).

53. *Chronology—Pragmatic Adaptations*, Free China Review 15 (January 1991).

54. *Id.*

55. Chien-min Chao, *Interactions Between Taiwan and Mainland China After the Tiananmen Massacre*, 26 Issues & Studies 36, 48 (December 1990).

56. *Id.*

57. Wakabayashi, 87 China Newsletter at 6 (cited in note 52).

58. In 1980, Taiwan had already become the leading source of Hong Kong's reexports to the mainland, and has continued to occupy this position until present. Between 1980 and 1984, trade grew annually by as much as 157 percent—via third-country trading companies, fishing boats, and the black market. Between 1979 and 1988, trade relations between Taiwan and the mainland increased at an average rate of 48.5 percent. Tung, 26 Issues & Studies at 40 (cited in note 40).

government discourage it. Officials knew that indirect exports had become a source of significant revenue, and realized that they could not control private transactions conducted under the guise of third-country trading companies. At the same time, many believed that Taiwan's economic clout could be used to its own advantage. Thus the ROC government ignored indirect trade and promulgated no explicit guidelines.

In 1985, this ambiguous policy stance came under attack: a Taiwan businessman who had visited Guangzhou in connection with an indirect trade matter was arrested by the Taiwan Garrison Command on his return to Taiwan.⁵⁹ As a result, industry began to complain loudly, and the matter became a political problem. In July 1985, the Taiwan government announced that it would stand by the principles of "non-interference" and "non-encouragement" regarding exports of Taiwan goods via third countries.⁶⁰

Although ROC authorities adopted a hands-off approach to exports shipped indirectly to the mainland, imports continued to be subject to strict controls. Nonetheless, as a result of Taiwan residents' strong demand for mainland products, business leaders began to pressure the government to relax restrictions. In July 1987, ROC authorities abolished import controls on raw materials for Chinese medicines, and approved the import of cultural and scientific publications from the mainland.⁶¹ Since that time, the ROC has approved, with certain restrictions, the indirect import of coal, raw cotton, steel, cement, various manufacturing and agricultural raw materials and other items.⁶²

Indirect trade between Taiwan and the mainland continued to grow after the June 4, 1989 Tiananmen uprising, but not as quickly as before. ROC officials claim that between 1987 and 1988, trade grew by about 80 percent, while growth between 1988 and 1989 was only about 30 per-

59. Wakabayashi, 87 China Newsletter at 10 (cited in note 52).

60. This doctrine has been worded as a three-point policy:

- (1) Taiwan residents are not allowed to trade *directly* with mainland China;
- (2) No direct negotiations are allowed with Communist officials;
- (3) The ROC authorities will not interfere with indirect trade, as they are not in a position to control it.

This policy has been disappointing because it fails to address many vital concerns. Nonetheless, it is expedient because it (a) maintains the Three No's principle by banning all *official* contact, and (b) saves the ROC from enforcing laws which would be difficult, if not impossible, to enforce.

61. Wakabayashi, 87 China Newsletter at 8 (cited in note 52).

62. Id at 10.

cent.⁶³ This impact has been attributed to the brutal suppression of the pro-democracy movement and China's austerity program.⁶⁴

Since the Persian Gulf crisis, however, there has been a significant increase in indirect trade. Between 1990 and 1991, trade via Hong Kong rose 76 percent.⁶⁵ According to ROC trade officials, Taiwan exporters were unable to sell their products in the Middle East during this time, and consequently stepped up shipments to China.

Indirect Taiwanese investment in mainland China has also proliferated. Since 1987, many small and medium-size export processing enterprises in Taiwan have established operations on the mainland. There are several reasons for this: First, Taiwan is in a period of economic transition. Land prices, wages, and other costs have escalated, and many industries face obstacles posed by environmental regulations. Taiwan is no longer a mecca of cheap labor and unlimited resources. Second, many Taiwan businesspeople have close personal connections on the mainland. Family ties provide *guanxi* (connections), a necessity for dealing with the mainland's multifarious written and unwritten regulations. Third, the sheer size of the mainland market is difficult to ignore. Fourth, many Taiwan investors see themselves as free-market prophets, helping transform the Communist regime into a capitalist economy. Last, mainland authorities have taken significant steps to encourage Taiwanese investment. In 1989, for instance, the State Council approved the establishment of exclusive investment zones ("Taiwan Industrial Zones") for Taiwan businesses in the Haicang and Xinglin regions of coastal Xiamen City.⁶⁶

For these reasons, indirect investment from Taiwan has increased rapidly since 1987. At the end of 1988 there were 430 investment projects totalling \$600 million, and by the end of 1989 there were roughly 2,000 investment projects worth as much as \$1.0 billion.⁶⁷ Most of these projects were in the mainland's Fujian Province.

Moreover, investment has not seemed to diminish since the Tiananmen Square massacre. Following the June 4 crackdown, PRC officials actively reassured Taiwan investors that they would "enjoy full

63. Trade between 1988 and 1989 totaled \$3.4 billion. Dennis Van Vranken Hickey, *Tiananmen's Tremors: The Economic, Political, and Strategic Impact of the Democracy Movement on Taiwan*, 27 *Issues & Studies* 36, 38 (February 1991).

64. *Id.*

65. Exports to China increased 79 percent, while imports jumped 65 percent. Chao, 26 *Issues & Studies* at 51 (cited in note 55).

66. Wakabayashi, 87 *China Newsletter* at 11 (cited in note 52).

67. Renmin Ribao (People's Daily, Intl ed) 1 (Feb. 5, 1990).

autonomy over the production, management, sales and other aspects of their firms," and that they would "even be granted more preferential terms than [non-Chinese] foreign investors."⁶⁸ In February 1990, PRC Premier Li Peng declared that "further efforts, such as raising efficiency, offering more favorable tax rates and providing more skilled workers and technicians, should be made to create a better climate for investors from Taiwan, Hong Kong and Macau."⁶⁹

Although ROC officials deny it, some sources contend that Taiwanese investment has actually increased since the suppression of the democracy movement.⁷⁰ One Taiwanese newspaper report⁷¹ claims that Taiwan is the largest investor on the mainland, with invested capital exceeding combined Japanese and American investment. In fact, observers have suggested that Taiwanese investment accounts for as much as 60 percent of all foreign investment on the mainland.⁷²

III. PRAGMATIC ECONOMIC RELATIONS

A. *Ad Hoc Approach*

This "mainland fever" in the Taiwan business community has provoked anxiety in ROC authorities. Unlike tourism, trade and investment require official action and raise national security concerns. Nonetheless, ideology has hindered the ROC: since it does not recognize the mainland government, it refuses to negotiate with mainland officials. As a result, it must address trade and related issues in a unilateral and *ad hoc* fashion.

With regard to imports, ROC officials feared that Taiwan would become dependent on mainland resources and that the Communist regime would exploit this advantage. As a result, until 1987 ROC authorities banned the import of any good from the mainland. However, since the mainland was abundant in natural resources well-suited to Taiwan (such as herbal medicines, coal and cotton), there was significant demand in Taiwan for mainland products. As a result, the ROC authorities

68. Hickey, 27 *Issues & Studies* at 45 (cited in note 63).

69. *Mainland Welcomes Taiwan Investors*, China Daily (Taipei) 1 (February 28, 1990).

70. ROC officials deny that there has been an increase. The director of the Government Information Office, Dr. Shaw Yu-ming, has described Taiwanese investment in the mainland as "peanuts." Hickey, 27 *Issues & Studies* at 43 (cited in note 63).

71. *Taiwan Becomes Premier Investor on Mainland*, China News (Taipei) 4 (February 13, 1990).

72. Lincoln Kaye, *Business Booms Across the Taiwan Strait*, Far Eastern Economic Review 68 (November 16, 1989).

granted permission to import certain raw materials in 1987, but stipulated four conditions which had to be met.⁷³

Since imports must enter the island, they can be strictly monitored, and have thus not caused significant policy problems. Exports and investment, on the other hand, have caused alarm among ROC officials. Since the direct export of any good to the mainland is illegal, exports must first be sent to third-country destinations such as Hong Kong. Similarly, all investment must be conducted by third-country subsidiaries. This policy prevents the government from monitoring or regulating products destined for the mainland.

A much bigger problem derives from the nature of business: since goods, equipment, personnel, funds, and information must be exchanged, there is an urgent need for open lines of transportation and communication. Yet ROC policy forbids direct airline flights, ship crossings, mail or telecommunications links, since such contact would require negotiations between ROC and PRC officials. As a result, Taiwan residents who do business in mainland China must incur considerable inconvenience and expense. They must also bear the burden of acting without their government's full support and protection.

Consequently, ROC officials admit there is a pressing need for a more comprehensive approach. The volume of private exchanges between the two regions is so great that many issues can no longer be ignored. But officials are also concerned that they are being "dragged along" by the private sector, meaning that they are being forced to deal with the mainland as a result of political pressure from powerful industrialists.

The heart of the matter, however, is essentially ideological: ROC policymakers are hindered by the Three No's policy, which prohibits any official contact whatsoever with the mainland. As a result, they must deal with problems arising from private exchanges on an *ad hoc* basis, without well-reasoned, comprehensive, and realistic guidelines. As stated by Ma Ying-jeou, supervisor of the Foundation for Exchanges Across the Taiwan Straits: "Our mainland policy has developed to a point where many problems have arisen as a result of the very extensive contacts between the people of the two sides. And to be pragmatic, to be problem-

73. The four conditions are: (1) No harm is done to state security; (2) there is no adverse effect on related domestic industries; (3) such imports contribute to the export competitiveness of products made in Taiwan; and (4) a warning system be put in place to prevent Taiwan from becoming too dependent on specific products made in mainland China. Wakabayashi, 87 China Newsletter at 10 (cited in note 52).

solving, we have to face the realities and try to solve these problems *as they come up*" (emphasis added).⁷⁴ Although rooted in pragmatism, such an approach is unrealistic in the long run.

B. *Industry Pressure*

Trade is a way in which we can strengthen our relations with the mainland. But if the government does not act quickly to develop clearer guidelines, businessmen here will unite with the mainland regime, because such contacts will benefit both of them.⁷⁵

Since the opening up of Taiwan in 1987, officials have been concerned about the possibility that industry would pressure the government into concessions that would ultimately compromise Taiwan's security and economic development. As a way of illustrating the possible dangers, ROC President Lee Teng-hui related the following story to a meeting of the KMT's Central Standing Committee on August 24, 1988:

When the Chinese communists were trying to establish formal relationships with Japan, they tried everything possible to encourage Japanese businessmen to invest in mainland China. Then they told the Japanese that formal diplomatic ties between the ROC and Japan was the greatest obstacle to the progress of Japan-mainland China trade, so that the businessmen would put pressure on their government to sever formal diplomatic relations with the ROC. Today, we must be careful that the communists may be doing the same thing. First, they attract our businessmen to invest on the mainland, and then when investment becomes substantial, they use our businessmen to put pressure on our government and create problems for us. . . . We must look at this possibility with a responsible attitude and we must prevent it from happening.⁷⁶

Although this political threat is real, it has been overshadowed by another looming concern: the shift of large industrial concerns from Taiwan to the mainland. Since 1987, ROC officials have been concerned that (a) investments by Taiwan companies in down-stream, labor-intensive industries on the mainland would be followed by investments in mid-stream and upstream, capital-intensive sectors; (b) technology would be

74. Symposium, *Adjustments in Policies*, Free China Review 1 (January 1991).

75. Kao Koong-lian, deputy executive secretary, Mainland Affairs Council. Id.

76. Hu, 25 Asian Outlook at 24 (cited in note 33).

transferred which would adversely affect Taiwan's industrial competitiveness; and (c) Taiwan's manufacturing industry would be reduced to a mere shell, through the same process that caused the shift of Hong Kong's industrial base to the Zhujiang (Pearl River) delta.⁷⁷

In fact, Taiwan's worst fears were realized when the Formosa Plastics Group (FPG), one of the world's largest petrochemical companies, tentatively agreed to invest up to \$7 billion in the Taiwan Industrial Zone of Xiamen City, Fujian Province, in mainland China. The project would supply third-tier processing plants with raw materials and would include an oil refinery, two naphtha crackers, and 32 chemical-refining plants.⁷⁸ If the project were to get off the ground, it would employ up to one million mainland Chinese and would make Xiamen a world-class industrial center. Furthermore, FPG chief Wang Yung-ching, Taiwan's biggest industrialist and a highly prominent business leader, would set a precedent which others would be sure to follow.⁷⁹

The government has argued that such an investment would "prop up" the Communist regime and may pose a threat to Taiwan's industrial base.⁸⁰ The petrochemical industry accounts for 37 percent of Taiwan's total production, employs 740,000 people, and exports products worth \$10 billion.⁸¹ If the Fujian project succeeds, the resulting concentration of mid- and downstream Taiwanese petrochemical manufacturers in Xiamen city would shift an entire industry to the mainland. Other industries, including machinery, steel processing, and textiles, would also consider following suit.⁸²

Investors have a different viewpoint. They argue that Taiwan investment in the mainland encourages economic reform and that strengthening the mainland's free-market economy is the best way to influence political reform in the post-Deng era. Nevertheless, a deal as large and influential as the Formosa Plastics Group project accentuates the conflict between the business community's basic desire to maximize profits and the govern-

77. Wakabayashi, 87 China Newsletter at 10 (cited in note 52).

78. James MacGregor, *Headstrong Tycoon Defies Taiwan, Pursues Huge China Investment Plan*, Asian Wall Street Journal Weekly 11 (August 20, 1990).

79. Id.

80. High-ranking officials are reported to have said that the deal would "lead to the demise of the industry in Taiwan," and that "the company is supporting the Communist Party." Nan Min, *The Shock of Wang Yung-ch'ing's Mainland Travels*, Chiu Shih Nien Tai 38-39 (March 1990).

81. Tung, 26 Issues & Studies at 54 (cited in note 40).

82. Id.

ment's desire to maintain security and strengthen its political bargaining position.

C. *Difficulty of Monitoring Indirect Business*

Although ROC authorities have publicly acknowledged that they cannot control indirect trade and investment, the Formosa Plastics Group incident has spurred suggestions to monitor mainland investments made by publicly-held companies.⁸³ This has been difficult, since investments made by companies in third countries are under foreign jurisdiction. Nonetheless, in October 1990, the Taiwan Department of Trade and Industry for the first time approved regulations governing indirect investments on the mainland, including a list of 3,353 products that could be produced there.⁸⁴ These rules have rightly been regarded by investors as an attempt to keep tabs on their foreign activities and have been largely ignored. So far only a few companies have complied.⁸⁵

The ambiguous official policy literally forces Taiwan business to skirt the law. Businesspeople are expected to conduct "indirect" trade and investment, which means that when they visit the mainland, they must wear the "hat" of their foreign subsidiary or trading partner. For example, when the chairman of the Formosa Plastics Group, Wang Yung-ching, traveled to the mainland for negotiations, he met with the governors of both Guangdong and Fujian Provinces for the express purpose of doing business. At the end of 1989, he also visited Beijing, where he met with Deng Xiaoping.⁸⁶ These meetings, however, were not conducted under the official name of the Formosa Plastics Group; a subsidiary trading company had been established in Hong Kong to make sure the venture was properly "indirect."

The question thus arises whether an official ban on direct trade and investment is in Taiwan's best interest. The ROC authorities wish to monitor trade and investment to protect Taiwan's "security and economic development."⁸⁷ But is it possible to monitor *indirect* trade and investment? Are not these two policy goals, the ban on direct trade and investment, and the desire to monitor such activity, contradictory *per se*?

83. Wakabayashi, 87 China Newsletter at 12 (cited in note 52).

84. Jeremy Mark, *Executives Focus on Shortcomings of Taiwan's Growing China Links*, Asian Wall Street Journal Weekly 13 (December 24, 1990).

85. Id.

86. Wakabayashi, 87 China Newsletter at 12 (cited in note 52).

87. Id. at 13.

The ban on direct trade and investment also hurts the Taiwan business community. Businesspeople say that making investment through foreign subsidiaries and channeling trade through third countries add too many expenses, delays and other problems. Until direct links are allowed, many companies cannot afford to do business with the mainland.

D. *Private vs. Public Exchanges*

The enormous volume of business between Taiwan and the mainland makes it imperative that ROC officials work out a framework with the PRC. Yet such a comprehensive policy will probably never exist as long as the ROC government insists upon banning "public" and "political" contact, while tolerating "private" and "economic" relations. Such distinctions are clearly unrealistic.

For example, in March 1990, ROC officials announced that they would begin preparations to resume sea and air traffic across the Taiwan Strait.⁸⁸ Once airline flights and ship crossings are started between Taiwan and mainland China, how can official discussions between the two sides be avoided?

ROC officials themselves are trying to tacitly ignore rhetorical distinctions. For example, at the end of 1989, ROC and PRC officials met in Hong Kong and signed an agreement establishing the "Taiwan-China Commercial Affairs Cooperative Council."⁸⁹ This agreement was justified on the grounds that it was signed in Hong Kong and that a Chinese businessman of American nationality acted as an intermediary.⁹⁰ As such "private" agreements multiply, the need to negotiate will become more compelling.

In fact, it appears that the distinction between "private" and "public" has already been blurred by the establishment of the Foundation for Exchanges Across the Strait, a "nongovernment" intermediary organization founded to handle "technical matters" and to "provide protection or help" to Taiwan businessmen.⁹¹ In practice, this "private" organization is a face-saving way to expedite contact between ROC and PRC officials. The Foundation will receive at least half its funding from ROC govern-

88. *Id.*

89. *Id.* The complete text of the draft legislation is carried in *Chung Kuo Shih Pao* (Oct 10, 1989).

90. The ROC representative, Chang P'ing-chao, a member both of the Legislative Yuan and the KMT Central Committee, was reprimanded by KMT members on his return to Taiwan.

91. Interview with Ma Ying-jeou, Vice-Chairman of the Mainland Affairs Council, in Amy Lo, *Imagination Linked With Decisiveness*, *Free China Review* 26 (January 1991).

ment sources and will be directly supervised by the Mainland Affairs Council of the Executive Yuan.

It is unclear why Taiwan authorities insist on rhetorical distinctions when it appears to be in Taiwan's interest to resolve pressing matters through official negotiations, and when such distinctions will in time be ignored anyway.

E. *People-to-People Contacts*

Taiwan's "people exchange" laws also contain provisions which seem inconsistent with the ROC's stated intent of encouraging cultural, academic, and athletic exchange. For example, Clause 42 of the "Provisional Articles on Relations Between the Peoples of Taiwan and the Mainland" stipulates that all mainland residents who have ever belonged to the Communist Party must declare this at their time of entry into Taiwan or else face prosecution by Taiwan authorities.⁹² This device may soothe KMT hardliners, but it contradicts the goal of increased people-to-people contacts. Many intellectuals, artists, performers, athletes, scientists and "important" persons from the mainland are CCP members. The very idea of being prosecuted by Taiwan authorities on the basis of politics, even if such a threat lacked credibility, will not be received graciously. For example, after the Taiwan authorities lifted the ban on PRC reporters visiting Taiwan, none of them applied to visit.⁹³

More importantly, such a position blatantly contradicts the ideal of an open, democratic society. Taiwan has every reason to be proud of its recent political development; it is now much more pluralistic, free, and democratic than ever before. If Taiwan is to set a political example for the mainland—and this is a clearly stated policy goal—the threat to prosecute mainlanders on the basis of party membership is counterproductive.

IV. BATTLE FOR CHINESE MINDS

A. *Marketplace of Ideas*

In Taiwan moviehouses, nearly every film once began with an image of Taiwan, a small yellow island, abutting a huge red mainland China. The little island begins radiating yellow, pulsating rhythmically as the

92. Provisional Articles on Relations Between the Peoples of Taiwan and the Mainland. 2 Current Compilation of Laws and Regulations of the ROC 672.

93. Hungdah Chiu, *Recent Chinese Communist Policy Toward Taiwan and the Prospect for Unification*, 27 Issues & Studies 13, 22 note 28 (January 1991).

ROC national anthem plays. Within seconds the huge red expanse is penetrated by yellow pulses and starts turning yellow. By the end of the anthem, the entire mainland has turned to yellow.

The ROC authorities have now formally abandoned the goal of taking over the mainland militarily. Instead, they have taken to the marketplace of ideas, where they are waging a campaign to influence the socioeconomic and political development of the mainland by influencing its students, intellectuals, and businesspeople. This position differs significantly from pre-1987 policy and reflects a healthy optimism on the part of ROC officials that mainland Chinese will be impressed with Taiwan and will look upon it as a model for mainland China's own development. In a sense, this thinking is a call to battle, a campaign to win the hearts and minds of influential Chinese throughout the world.

This strategy is a new phenomenon, spawned by the exponential pace of political reform since martial law was lifted in 1987. Without such dramatic reform, ROC authorities would probably lack the credibility to influence mainland affairs. Prior to reform, Taiwan was viewed by mainland Chinese as a KMT stronghold, envied for its wealth yet derided for its totalitarianism, exploitation and greed. In the words of a prominent mainland Chinese law professor: "For four decades, the KMT has implemented and expanded special laws and regulations in order to maintain its single party dictatorship . . . and resist political influence from the mainland."⁹⁴ Simply put, mainlanders associated Taiwan with the exploitive, corrupt KMT which had fled mainland China forty years earlier.

This image was cultivated by PRC authorities, but it started to crumble as the KMT implemented real political reform. By the late 1980's, after travel restrictions had been loosened and hundreds of thousands of Taiwan residents had traveled to the mainland, news of the "Taiwan miracle" had spread. Some reports suggest that during the months which preceded the Tiananmen democracy movement, the PRC had been swept by "Taiwan fever."⁹⁵

The ROC authorities, for their part, base their new strategy on two assumptions: (a) Dr. Sun Yat-sen's ideas, upon which the ROC Constitution is based, provide the most Chinese and most expedient ideology upon which to base constitutional democracy;⁹⁶ and (b) the Chinese people, if

94. Zeng and Zheng, 3 J Chinese L at 206 (cited in note 2).

95. Hickey, 27 Issues & Studies at 44 (cited in note 63).

96. Sun Yat-sen's ideas are encapsulated in the *San Min Zhu Yi* [The Three Principles of the People], which are: Nationalism, Democracy, and People's Livelihood. Sun's doctrine

given the option, would choose a democratic, free-market system over communism.

These assumptions underlie the five main principles which guide ROC policy toward the mainland. The ROC has vowed to

- (a) defend the Constitution of the ROC; (b) oppose Marxism and Leninism; (c) maintain the security of the Taiwan area; (d) support the struggle of mainland Chinese for freedom, human rights, and the rule of law; and (e) accelerate the pace of China's reunification under the principles of Sun Yat-sen.⁹⁷

Since these principles are general in nature and focus on ideology, they provide room for the ROC government to use its imagination in following their spirit.⁹⁸

As a result, ROC policy has taken a subtle turn: There is now less emphasis on sweeping ideological demands and more emphasis on propositions acceptable to the Chinese masses. For example, ROC authorities have in the past demanded that the CCP renounce the Four Cardinal Principles.⁹⁹ Such a demand, if accepted, would amount to capitulation, and as such is unrealistic. ROC officials now reason (especially after the Tiananmen Square massacre) that mainland Chinese would themselves, if given the option, force the government to jettison these principles.

Consequently, the ROC now attempts to elevate freedom of speech on the mainland through increased "people" exchange. The rationale is that press freedom, academic freedom and artistic freedom will elicit enthusiastic response from mainlanders, and, if successful, ultimately force the CCP to relinquish authoritarian control. Thus, in June 1989, immediately following the start of the Tiananmen demonstrations, ROC officials initiated indirect telecommunications links across the Strait of Taiwan and simplified mailing procedures for correspondence destined for

incorporates Western ideas of constitutional democracy with useful aspects of Confucian political culture.

Richard Wilhelm, a contemporary of Sun Yat-sen and leading German translator of the Chinese classics, wrote of Sun Yat-sen's thought:

The greatness of Sun Yat-sen rests upon the fact that he has found a living synthesis between the fundamental principles of Confucianism and the demands of modern times. . . . His intellectual work stands as a connecting bridge between the old and the modern ages. Chu-yuan Cheng, ed, *Sun Yat-sen's Doctrine in the Modern World* ch 2 at 73 (Westview Press, 1989) ("*Sun Yat-sen's Doctrine*").

97. Interview with Ma Ying-jeou, Vice-Chairman of the Mainland Affairs Council, in *Lo, Free China Review* at 26 (cited in note 91).

98. *Id.* at 27.

99. The Four Cardinal Principles are: (1) adherence to socialism, (2) dictatorship of the proletariat, (3) leadership of the CCP, and (4) adherence to Marxist-Leninist-Maoist thought.

the mainland.¹⁰⁰ In addition, mainland Chinese noted for academic, cultural and sports achievements may now visit Taiwan.¹⁰¹

The ROC's ultimate goal clearly remains the overthrow of the hardline Communist regime. But in propounding policy, ROC officials are now careful to use terms acceptable to mainland Chinese. For example, the stated purpose of the ROC's "Guidelines for National Unification," approved by the National Reunification Council in February 1991, is "to establish a democratic and free China *with equal distribution of social wealth among the people*" (emphasis added). This last idea is not characteristic of laissez-faire capitalism, but is a reminder that Dr. Sun Yat-sen's thought contains egalitarian principles appropriate for mainland China.¹⁰²

B. *Reunification Is a Cornerstone*

The campaign to influence the socioeconomic and political development of mainland China is not just an ordinary policy goal. It draws life from the idea, accepted by a majority of Chinese on both sides of the Strait, that the reunification of Taiwan and the mainland is inevitable.

Mao Zedong used to say that it did not matter if Taiwan took a hundred years to rejoin the motherland; he was certain that the two sides would eventually reunite.¹⁰³ Many people discount this assertion, regarding unification as an imponderable which is too far in the future and thus subject to the fickle winds of politics.¹⁰⁴ Yet both the ROC and PRC consider it of fundamental importance and make decisions which pro-

100. *Chronology—Pragmatic Adaptations*, Free China Review 15 (Jan 1991).

101. *Id.*

102. Although Sun strongly believed in private enterprise, his doctrine rested upon land reform and the nationalization of many basic industries. In formulating the Principle of People's Livelihood (*min-sheng*), he seems to have incorporated the Confucian idea of economic and social equality (*chun*). In 1919, arguing in favor of the *min-sheng* principle, Sun quoted a famous saying of Confucius that a state should "worry not about poverty but about unequal distribution (of wealth)." *Sun Yat-sen's Doctrine* ch 3 at 96 (cited in note 96).

Some ROC officials believe that the loss of the mainland was due not to mainland Chinese support of Marxism, but rather the KMT's failure to uproot economic injustice and implement Sun's *min-sheng* principle. Chiang Kai-shek told his followers in 1950: "Almost every comrade knows that our failure in the anti-Communist struggle is due to our neglect of the *min-sheng* principle in the mainland. Every comrade also knows that henceforth in our anti-Communist struggle we must realize this principle through practical actions, not theoretical discussion." Economic reform thereafter became one of the KMT's major policy goals. *Annual Report of the Republic of China (Chung Hua Min Kuo Nien Chien)*, 1950 123 (1951).

103. Andrew Nathan, *China's Crisis: Dilemmas of Reform & Prospects for Democracy* 154 (1990).

104. This attitude is very common among Western commentators, who see the "Taiwan issue" from a typically short-term perspective.

foundly influence internal and external affairs on the assumption the two sides will indeed reunite.

Nevertheless, the prospect of unification has recently been challenged by calls for independence from Taiwan opposition party members. Although it is still formally illegal in Taiwan to espouse separation, debate about the issue abounds, and thinly-disguised pleas for "self-determination" are regular occurrences.

The post-martial law era in Taiwan has thus witnessed an unprecedented airing of the once-suppressed view of Taiwan separation/independence. The driving force behind this view is that during the past forty years, political and economic bifurcations have created two separate societies across the Straits. Many Taiwan residents doubt that the two societies are compatible and have thus ceased to question *when* and *how* they can get back to the mainland. Instead, they ask *why* there is a need to return to the mainland at all.¹⁰⁵

It is important to note that Taiwan's political reform has changed an important assumption on which the PRC's Taiwan policy has historically been based. The CCP has assumed that the KMT is controlled by mainlanders committed to reunification and that it has the power to resolve the fate of Taiwan. But democratization has so complicated the internal politics of Taiwan that it is now impossible to strike any "mainland deal" that does not command wide popular support on the island. Control of the KMT and of the island is tipping from mainlander to native Taiwanese hands, from the elite to the electorate. Lee Tenghui, for example, is the ROC's first native Taiwanese president.

In this light, it should be noted that the vast majority of Taiwan's inhabitants have never stepped on mainland soil and do not necessarily consider it their homeland. Given the antipathy of many native Taiwanese (who comprise at least 85 percent of the populace) toward resident mainlanders, unification has never been a top priority. Indeed, many native Taiwanese seem content with the status quo, *de facto* separation from the mainland. Beijing officials firmly oppose *de facto* separation, called "type B" independence by commentators, and have stepped up calls for more open economic and cultural exchange.

Even among the KMT elite, democratization has taken its toll: the hardline anti-communist stance which existed in the past appears to have subsided, and there has been a shift away from the civil war mentality

105. Liu, 16 Asian Affairs at 136 (cited in note 6).

that permeated the political sphere. This shift will be given further impetus by the recent suspension of the Period of Mobilization in Suppression of Communist Rebellion in April 1991. Now, Taiwan no longer considers itself at war with the mainland.¹⁰⁶

Nonetheless, the most urgent concern at present is the threat of a unilateral declaration of independence, or "type A" independence. Since the 1989 elections, many newly-formed opposition parties have made public calls for "self-determination." In November 1989, for example, a radical separatist organization called the "New Country Alliance" was formed; its main purpose is to espouse separation from the mainland.¹⁰⁷ The Democratic Progressive Party (DPP), the largest political opposition group in Taiwan, has recently written the aim of separatism into the party's bylaws.¹⁰⁸ And although it is still illegal to espouse independence, officials have been reluctant to take decisive action. The Taiwan news media frequently debates the issue under the guise of "self-determination."

It would still be a mistake to discount the powerful force the idea of reunification exerts on both sides of the Straits. Aside from the official KMT allegiance to unification—which some skeptics regard as a delusion founded on self-pride and political orthodoxy—there are inescapable reasons why independence remains an unviable option for Taiwan. First, Chinese nationality and culture are deeply rooted on the island. Conservative estimates date the incorporation of the Penghu islands (the Pescadores) into the Chinese Empire by 1225. As for neighboring Taiwan, massive settlement began after Koxinga expelled the Dutch from the island (after 37 years of colonial rule) in 1661. In 1683, Taiwan came under Ching rule, and in 1684 it was made a prefecture of Fukien (Fujian) Province. This status lasted until 1885, when it was made a separate province. In 1895, Taiwan was seized by Japan.¹⁰⁹

Most of the inhabitants of the island can trace their ancestry to Fukien Province. According to a Japanese census taken in 1926, 83.1 percent of the Chinese population on Taiwan hailed from Fukien, 15.6

106. The Temporary Provisions were suspended principally to strip the President of his extra-constitutional powers and implement constitutional government. Nonetheless, the suspension formally abolishes the civil war between the two sides.

107. Chao, 26 Issues & Studies at 40 (cited in note 55).

108. Jeremy Mark and James MacGregor, *Independence Movement in Taiwan Reflects Broad Restiveness for Domestic Political Reform*, Asian Wall Street Journal Weekly 1 (September 16, 1991).

109. See Yu-ming Shaw, *Modern History of Taiwan: An Interpretive Account*, in Hungdah Chiu, ed., *China and the Taiwan Issue* ch 2 (Praeger Scientific, 1979).

percent from Guangdong, and 1.3 percent from other Chinese provinces.¹¹⁰ The peoples of Taiwan and Fukien share a common language (Taiwanese is nearly identical to a Fukienese dialect), similar religious practices and beliefs, and similar family structures and kinship constellations.¹¹¹ It is no coincidence that Fukien is such a popular destination for Taiwan businesspeople.

These strong cultural ties alone are clearly insufficient to counter the powerful socioeconomic and political incentives for separation. Instead, they serve to legitimize a second, much more important factor: the threat of mainland Chinese force. Previously, Deng Xiaoping set forth five conditions under which the PRC would use force: (a) if Taiwan were invaded by a foreign power; (b) if Taiwan developed nuclear weapons; (c) if Taiwan claimed independence; (d) if major internal chaos broke out on the island; or (e) if Taiwan continued to refuse unification for "a long period of time."¹¹² According to recent reports, however, the PRC has tacitly dropped all but two of these conditions: foreign invasion, or a unilateral declaration of independence.¹¹³

Underlying this threat is the notion that Taiwan is historically and culturally part of China, and no foreign power has the right to interfere.¹¹⁴ This idea is shared by an overwhelming percentage of Chinese. Regardless of what the world opines, and what 20 million Taiwan residents may themselves decide, the PRC will not allow Taiwan to secede. Moreover, the moral and humanitarian issues that might compel mainland China to renounce military force do not (in the eyes of mainland Chinese) outweigh its sovereign right to protect its soil. Mainland China will not easily relinquish the idea that the Taiwan-Penghu-Kinmen-Matsu islands are part of one China.

For this reason, both Taiwan's leadership and the electorate fear the mainland military threat. Strategists have argued that mainland Chinese military action would be difficult and costly.¹¹⁵ Taiwan maintains a formidable coastal defense system consisting of modern missiles, jet fighters and electronic spotting devices.¹¹⁶ Nonetheless, it is undisputed that if

110. Id at 15.

111. Liu, 16 Asian Affairs at 136 (cited in note 6).

112. John Quansheng Zhao, "One Country, Two Systems" and "One Country, Two Parties": PRC-Taiwan Unification and its Political Implications, 2 Pac Rev 312, 313 (1989).

113. Chang Chen-pang, *The Issue of China's Unification as Viewed from Both Sides*, 27 Issues & Studies 5 (January 1991).

114. This last point is spelled out in every diplomatic agreement the PRC has signed.

115. Mark and MacGregor, Asian Wall Street Journal Weekly at 1 (cited in note 108).

116. Id.

the mainland amassed troops and were ready to strike, martial law would be proclaimed in Taiwan overnight, and every major democratic reform implemented since 1987 would disappear.

Furthermore, the mainland has not hesitated to use this threat at politically opportune moments. For example, at the end of 1989, when DPP candidates began publicly calling for a "new nation" during an election campaign, it was rumored that PRC officials had formed a task force to study the feasibility of military reprisal.¹¹⁷ In March 1990, during a power struggle within the KMT party just before the presidential elections, the CCP-controlled Xinhua news agency openly came out in support of the conservative faction within the KMT, stating its belief that "Taiwan's elected leader should be a person who will work for the reunification of China."¹¹⁸ This announcement was immediately followed by news leaks that China's military bases had been put on alert.

Since the Tiananmen Square massacre, many ROC officials and residents are further convinced that the PRC is willing to use force. This has caused many separatists to "tone down" their calls for independence and has reminded Taiwan residents that the future is not for them alone to decide.

A third reason why independence is unlikely is that no major world power would openly support it, since it would require breaking relations with the PRC and would likely spur an international crisis. Taiwan has been recognized as part of China in every formal diplomatic relations agreement signed by the PRC. Nearly every major country and international organization in the world recognizes that there is only one China and that the "Taiwan question" is an internal matter for the Chinese themselves to decide.

Clearly, both sides recognize that reunification will not be feasible in the near future. Although there have been occasional calls for urgency, ROC and PRC officials agree that in order for the two sides to integrate, major political, social, cultural, and economic obstacles must first be surmounted. This will take time, patience, and an enormous volume of exchange. But the issue of whether Taiwan and the mainland *will* be reunified—or, phrased differently, whether mainland China will allow part of its territory to secede—is clear. As President Lee himself has said: "Although development in the ROC over the past forty years has been

117. Chao, 26 *Issues & Studies* at 43 (cited in note 55).

118. Wakabayashi, 87 *China Newsletter* at 15 (cited in note 52).

restricted to Taiwan, all plans have been conceived with the future of all of China in mind. Taiwan and the mainland are indivisible parts of China's territory, and all Chinese are compatriots of the same flesh and blood."¹¹⁹

CONCLUSION

Despite its anti-communist ideology, the ROC has adopted a more pragmatic approach to its colossal neighbor. This approach is embodied in a "noninterference" doctrine which allows Taiwan residents to engage in private, unofficial dealings with mainland Chinese, but forbids official, public contacts. Private exchange, however, has resulted in a need for official cooperation with mainland Chinese authorities, especially in transportation, communication, immigration, and financial matters. Yet such cooperation has not been forthcoming, and the ROC has not signed any official, substantive agreements with the PRC.

This *ad hoc* approach has caused friction between the ROC government and the private sector. Since their government refuses to recognize the legitimacy of the PRC, Taiwan residents who conduct business in the mainland must incur considerable expense and risk. This has provoked the ire of business leaders who have responded by pressuring the government to side-step ideology and negotiate with CCP officials. The result has been an ever-widening gap between the political interests of ROC officials and the economic interests of Taiwan industry.

The ROC has responded to the liberalization of relations with the mainland by exploiting academic, cultural and economic exchange across the Straits in an effort to convince mainlanders of the superiority of the ROC system. Several years ago this strategy was unthinkable since most mainland Chinese perceived Taiwan as a totalitarian KMT stronghold. But now that the ROC Constitution has been reinstated,¹²⁰ Taiwan residents are entitled to nearly every right and liberty common in Western democracies.

This dramatic reform has given the Taipei government new legitimacy, and has prompted ROC officials to launch a propaganda campaign

119. President Lee Teng-hui, *A New National Agenda*, Free China Review 8 (July 1990) (inaugural address).

120. The Temporary Provisions Effective During the Period of Mobilization to Suppress Communist Rebellion, which labeled the CCP as "rebels" and gave the President extra-constitutional powers (see text accompanying notes 15-24), were formally suspended by ROC President Lee Teng-hui in May, 1991.

to influence the economic and political development of the mainland. This campaign is more than just an ordinary policy goal; it is vitalized by the notion that mainland China and Taiwan are part of one China, and that reunification is inevitable. It is also the ROC's last realistic hope that it represents the future path of China.